

State of California

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Legislative Change No.

06-07

Bill Number: AB 2485 Author: Jones & Laird Chapter Number: 06-296

Laws Affecting Franchise Tax Board: Revenue and Taxation Code sections 18750, 18751, 18752, and 18753.

Date Filed with the Secretary of State: September 18, 2006

SUBJECT: California Sea Otter Fund

Assembly Bill 2485 (Jones & Laird), as enacted on September 18, 2006, made the following changes to California law:

Section 18750 of the Revenue and Taxation Code is added.

This act allows taxpayers to designate their own money, not tax liability, to the California Sea Otter Fund (fund). The contributions would be made in full dollar amounts. Each signatory on a joint return may make the contributions individually. The designations for any taxable year must be made on the initial return for the taxable year and, once made, are irrevocable. If an individual designates to more than one fund and an insufficient amount is available to satisfy the total amount designated, the contribution will be allocated among the designees on a pro rata basis. The taxpayer could claim an itemized charitable contribution deduction for the year in which a contribution is made.

This act specifies that the California Sea Otter Fund designation may not be added to the income tax return until another voluntary contribution designation is removed.

This act requires the Franchise Tax Board (FTB) to include a designation space for the fund on the individual tax return.

Section 18751 of the Revenue and Taxation Code is added.

This act establishes the California Sea Otter Fund in the State Treasury to receive contributions made pursuant to this act.

This act requires FTB to notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money taxpayers have designated to the fund. The Controller is required to transfer from the Personal Income Tax Fund to the fund an amount not in excess of the amounts reported by FTB.

Section 18752 of the Revenue and Taxation Code is added.

This act requires that all money transferred to the fund be allocated, upon appropriation by the Legislature, first to FTB and the Controller for reimbursement of costs incurred performing their duties related to the fund. Fifty percent of the remaining money is then allocated to the

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Department of Fish and Game to be used within the department's index coding system for increased investigation, prevention, and enforcement actions. The remaining 50 percent of the money is allocated to the California Coastal Conservancy for research and programs related to the near-shore ocean ecosystem, including sea otters.

Section 18753 of the Revenue and Taxation Code is added.

This act specifies that the provisions authorizing the fund shall remain in effect until January 1 of the fifth taxable year following the first appearance of the California Sea Otter Fund on the return. As of that date, the act will be repealed unless a later enacted statute, enacted prior to the applicable date, deletes or extends that date.

Requires the Franchise Tax Board to make the following two determinations beginning September 1 of the second calendar year after the fund first appears on the personal income tax (PIT) return and by September 1 of each subsequent year that the fund appears on the PIT return:

1. The minimum contribution amount required for the fund to remain on the return for the following calendar year.
2. Whether estimated contributions to the fund will be less than the minimum contribution amount for that calendar year. If the fund fails to meet the estimated minimum contribution amount, the fund would be repealed beginning on or after January 1 of that calendar year.

If FTB estimates in the second calendar year after the fund first appears on the return that contributions made to the fund on returns filed in that calendar year will be less than \$250,000 for the taxable year or the adjusted amount for subsequent years, this article is repealed for taxable years beginning on or after January 1 of that calendar year.

"Minimum contribution amount" for a calendar year is defined as \$250,000 for the second calendar year after the first taxable year that the fund appears on the tax return or the minimum contribution amount as adjusted for inflation for subsequent calendar years.

FTB is required to estimate the annual contribution amount by September 1 of each year using actual amounts contributed and an estimated contribution amount for the remainder of the year. For each calendar year beginning with the third calendar year, the minimum estimated contribution amount for the calendar year is adjusted for inflation based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year.

This act is effective on January 1, 2007, and operative as of that date. This fund will be added to the 2006 personal income tax return filed in 2007.

This act will not require any reports by the department to the Legislature.